

CARMEL CITY CODE
CHAPTER 10: ZONING & SUBDIVISIONS
ARTICLE 1: ZONING CODE
CARMEL ZONING ORDINANCE
CHAPTER 31: GENERAL PROVISIONS

- 31.00 General Provisions.
- 31.01 Violations and Penalties.
- 31.02 Severability.
- 31.03 Conflicting Ordinances.
- 31.04 Non-Interference.
- 31.05 Effective Date.
- 31.06 Amendments to the Zoning Ordinance.
- 31.07 Failure of Commission or Board to Establish a Vote.
- 31.08 Copy on File.

31.00 General Provisions.

31.01 Violations and Penalties.¹

- 31.01.01 A failure to comply with any of the requirements of this Ordinance, including violations of conditions and safeguards established in connection with the granting of variances, special uses or Planned District Development Plan approvals, shall constitute a violation of this Ordinance.
- 31.01.02 The Commission, the Board, the Director or any designated enforcement official or any person or persons, firm or corporation jointly or severally aggrieved, may institute a suit for injunction in any court of competent jurisdiction to restrain an individual or a governmental unit from violating the provisions of this Ordinance.
- 31.01.03 The Commission, the Board or the Director may also institute a suit for mandatory injunction directing any individual, firm, corporation, or governmental unit to remove a structure erected in violation of the provisions of this Ordinance.
- 31.01.04 Any building erected, raised or converted, or land or premises used in violation of any provisions of this Ordinance or of the requirements thereof, is hereby declared to be a common nuisance and as such may be abated in such manner as nuisances are now or may hereafter be abated under existing law.
- 31.01.05 Any person, firm, or corporation, whether as principal, agent, employee or otherwise, who violates this Zoning Ordinance is subject to the penalties provided in *Chapter 34: Zoning Violations*.
- 31.01.06 The owner or tenant of any buildings, structure, premises or part thereof, and any architect, builder, contractor, realtor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

¹ Section 31.01 amended per Ordinance No. Z-365-01.

31.02 Severability.

If any section, subsection, paragraph, subparagraph, clause, phrase, word, provision or portion of this Ordinance shall be found to be unconditional or invalid by any Court of competent jurisdiction, such finding or decision shall not affect or impair the validity of this Ordinance as a whole or any part thereof other than the section, subsection, paragraph, subparagraph, clause, phrase, word, provision or portion so held to be unconstitutional or invalid.

31.03 Conflicting Ordinances.²

31.03.01 Unless otherwise specifically stated within this Ordinance, whenever any provision of this Ordinance or other City ordinance or regulation imposes a greater requirement or a higher standard than is required by any other provision of this Ordinance, the more stringent provision shall govern.

31.03.02 Whenever any provision of this Ordinance imposes a greater requirement or a higher standard than is required in any State or Federal code or regulation or other City ordinance or regulation, specifically the Uniform Building Code, One and Two Family Building Code, Uniform Plumbing Code, and the National Electrical Code, the provision of this Ordinance shall govern.

31.03.03 Whenever any provision of any State or Federal statute or other City ordinance or regulation imposes a greater requirement or a higher standard than is required by this Ordinance, the provision of such State or Federal statute or other City ordinance shall govern.

31.04 Non-Interference.

It is not the intent of this Ordinance to interfere with, abrogate or annul any easements, covenants, or other agreements between parties, or to interfere with, abrogate or annul any ordinances, rules, regulations, or permits previously adopted or issued, and not in conflict with any of the provisions of this Ordinance, or which shall be adopted or provided; however, where this Ordinance imposes a greater restriction upon the use of buildings or land, or upon the height of buildings, or requires larger open spaces or greater lot area per dwelling unit than are imposed or required by other easements, covenants or agreements between parties or by such ordinances, rules, regulations, or permits, the provisions of this Ordinance shall govern.

31.05 Effective Date.

The Zoning Ordinance of the City of Carmel, Indiana, as herein presented, shall be in full force and effect from and after its passage by the City Council of the City of Carmel, Indiana, on _____, 1990.

On this date, **Ordinance No. Z-160**, passed by the City Council of the City of Carmel, Indiana, on January 21, 1980, and all amendments thereto, are hereby repealed and all other ordinances or parts thereof which are in conflict with the terms and conditions of this Ordinance are hereby repealed.

31.06 Amendments to the Zoning Ordinance.³**31.06.01 Definitions.**

Terms used in this Ordinance are defined in *Chapter 3: Definitions*.

² Section 31.03 amended per Ordinance No. Z-369-02, §bj.

³ Section 31.06 amended per Ordinance No. Z-316; Z-335; Z-416-03, §j-k; Z-460-04, §c; Z-475-05, §b.

31.06.02 Proposals to Amend or Partially Repeal the Text of the Ordinance.

The following procedure applies to a proposal to amend or partially repeal the text (not zone maps) of this Zoning Ordinance:

1. The proposal may be initiated by either the Commission or the Council; however, if the Council initiates the proposal, it shall require the Commission to prepare it.
2. The Commission shall prepare the proposal so that it is consistent with applicable state law.
3. In considering the proposal, both the Commission and the Council shall pay reasonable regard to:
 - i. the Comprehensive Plan;
 - ii. current conditions and the character of current structures and uses in each district;
 - iii. the most desirable use for which the land in each district is adapted;
 - iv. the conservation of property values throughout the City and the Township; and
 - v. responsible development and growth.
4. The Commission shall give notice and hold a public hearing on the proposal in accordance with its Rules of Procedure.
5. Within ten (10) business days after the Commission determines its recommendation (if any), the Commission shall certify the proposal to the Council with a favorable recommendation, an unfavorable recommendation, or no recommendation from the Commission.
6. The Council shall vote on the proposal within ninety (90) days after the Commission certifies the proposal. The Council's consideration of the proposal is governed by IC 36-7-4-607.
7. If the proposal is adopted, the Commission shall print the amendments to the Zoning Ordinance in book or pamphlet form, or arrange for them to be included in the City's Code of Ordinances.
8. Unless the proposal provides for a later effective date, the amendments contained in the proposal take effect when the proposal is duly adopted, except for any provision prescribing a penalty or forfeiture for a violation, which may not take effect until the Commission complies with the applicable notice and filing requirements described in IC 36-7-4-610.

31.06.03 Proposals to Change the Zone Maps Incorporated into the Ordinance.

The following procedure applies to a proposal to change the zone maps (whether by incorporating an additional map or by amending or deleting a map) incorporated by reference into this Zoning Ordinance:

1. The proposal may be initiated either:
 - a. by the Commission;
 - b. by a petition signed by property owners who own at least fifty percent (50%) of the land involved; or
 - c. by the Council; however, if the Council initiates the proposal, it shall require the Commission to prepare it.
2. The Commission or petitioners shall prepare the proposal so that it is consistent with applicable state law.

3. In considering the proposal, both the Commission and the Council shall pay reasonable regard to:
 - i. the Comprehensive Plan;
 - ii. current conditions and the character of current structures and uses in each district;
 - iii. the most desirable use for which the land in each district is adapted;
 - iv. the conservation of property values throughout the City and the Township; and
 - v. responsible development and growth.
4. The Commission shall give notice and hold a public hearing on the proposal in accordance with its Rules of Procedure.
5. Whenever the Commission deems it advisable in regard to the matters contained in *Subparagraph (3)* above, the Commission may permit or require the owner of a parcel of real property to make a Commitment subject to the rules prescribed for Commitments by *Section 31.06.05*. By permitting or requiring a Commitment, the Commission does not become obligated to recommend or not recommend the adoption of the proposal.
6. Within ten (10) business days after the Commission determines its recommendation (if any), the Commission shall certify the proposal to the Council with a favorable recommendation, an unfavorable recommendation, or no recommendation from the Commission.
7. The Council shall vote on the proposal within ninety (90) days after the Commission certifies the proposal. The Council's consideration of the proposal is governed by IC 36-7-4-608.
8. During the time when the proposal is being considered by the Council, the owner of a parcel of land may make a new Commitment or modify the terms of a Commitment made when the proposal was before the Commission. No further action of the Commission is required for a new Commitment to be effective. If a Commitment made when the proposal was before the Commission is modified and the effect of the modification is to make the Commitment more stringent, no further action of the Commission is required for the modified Commitment to be effective; however, if the effect of such a modification is to make the Commitment less stringent, then the modified Commitment must be ratified by the Commission to be effective. A Commitment made or modified under this provision is subject to the rules prescribed for Commitments by *Section 31.06.05*.
9. If the proposal is adopted, the Commission shall update the zone maps that it keeps available with the Zoning Ordinance and the City's Code of Ordinances.
10. Unless the proposal provides for a later effective date, the updated zone maps contained in the proposal take effect when the proposal is duly adopted.

31.06.04 Proposals to Adopt or Amend Planned Unit Development District Ordinances.

The following procedure applies to a proposal to adopt or amend a PUD District Ordinance:

1. Proposals for a PUD District Ordinance shall only be considered on property located within the boundaries of Carmel/Clay Township, Hamilton County, Indiana.
2. The proposal must be initiated by a petition signed by property owners who own all of the land to be included in the Planned Unit Development District.
3. The petitioners shall prepare the proposal so that it is consistent with the definition of a PUD District Ordinance provided in *Section 31.06.01* above.

4. The proposal may provide that any development requirements (other than permitted uses) that are specified in the PUD District Ordinance may be modified by a hearing examiner or committee designated by the Commission, after a public hearing held in accordance with the Commission's Rules of Procedure. However, any decision of a hearing examiner or committee which approves or denies any requested modification may be appealed by the Director or any interested party to the Commission, also in accordance with the Commission's Rules of Procedure.
5. In considering the proposal, both the Commission and the Council shall pay reasonable regard to:
 - i. the Comprehensive Plan;
 - ii. current conditions and the character of current structures and uses in each district;
 - iii. the most desirable use for which the land in each district is adapted;
 - iv. the conservation of property values throughout the City and the Township, and
 - v. responsible development and growth.
6. The Commission shall give notice and hold a public hearing on the proposal in accordance with its Rules of Procedure.
7. Whenever the Commission deems it advisable in regard to the matters contained in *Subparagraph (3) or (4)* above, the Commission may permit or require the owner of a parcel of real property to make a Commitment subject to the rules prescribed for Commitments by *Section 31.06.05*. By permitting or requiring a Commitment, the Commission does not become obligated to recommend or not recommend the adoption of the proposal.
8. Within ten (10) business days after the Commission determines its recommendation (if any), the Commission shall certify the proposal to the Council with a favorable recommendation, an unfavorable recommendation, or no recommendation from the Commission.
9. The Council shall vote on the proposal within ninety (90) days after the Commission certifies the proposal. The Council's consideration of the proposal is governed by IC 36-7-4-608 and IC 36-7-4-1512.
10. During the time when the proposal is being considered by the Council, the owner of a parcel of land may make a new Commitment or modify the terms of a Commitment made when the proposal was before the Commission. No further action of the Commission is required for a new Commitment to be effective. If a Commitment made when the proposal was before the Commission is modified and the effect of the modification is to make the Commitment more stringent, no further action of the Commission is required for the modified Commitment to be effective; however, if the effect of such a modification is to make the Commitment less stringent, then the modified Commitment must be ratified by the Commission to be effective. A Commitment made or modified under this provision is subject to the rules prescribed for Commitments by *Section 31.06.05*.
11. If the proposal is adopted, the Commission shall update the zone maps that it keeps available with the Zoning Ordinance and the City's Code of Ordinances to reflect the designation of the parcel as a Planned Unit Development District.
12. Unless the proposal provides for a later effective date, the PUD District Ordinance takes effect when the proposal is duly adopted.

31.06.05 Rules Governing Commitments.

1. **Form.** A Commitment must be in substantially the form set forth in the Commission's Rules of Procedure, and must identify any specially affected persons or class of specially affected persons who may enforce the Commitment. A Commitment must authorize its recording by the Director in the Office of the Hamilton County Recorder.
2. **Recording; Copies.** A Commitment shall be recorded in the office of the Hamilton County Recorder and takes effect upon the adoption of the proposal to which it relates. Following the recording of a Commitment, the Director shall return the original recorded Commitment to the owner and shall retain a copy of the recorded Commitment in the Commission's file.
3. **Persons Bound.** Unless it is modified or terminated by the Commission in accordance with *Subparagraph (4)* below, a recorded Commitment is binding on the owner of the parcel, a subsequent owner of the parcel, and any other person who acquires an interest in the parcel. An unrecorded Commitment is binding on the owner of the parcel who makes the Commitment. An unrecorded Commitment is binding on a subsequent owner of the parcel or a person acquiring an interest in the parcel only if the subsequent owner or person acquiring the interest has actual notice of the Commitment.
4. **Modification or Termination by Commission.** Except for a Commitment modified under *Section 31.06.03 (8)* or *31.06.03 (9)* above or automatically terminated under *Subparagraph (5)* below, a Commitment may be modified or terminated only by a decision of the Commission made at a public hearing after notice of the hearing has been given under the Commission's Rules of Procedure.
5. **Rezone Proposals; Automatic Termination.** A Commitment made under *Section 31.06.03* above automatically terminates if after the adoption of the proposal to which it relates:
 - a. the zone map applicable to the parcel is changed; or
 - b. the parcel is designated as a Planned Unit Development District under this Zoning Ordinance.

31.06.06 Rules Governing Reconsideration. The Commission may adopt a rule to limit further consideration, for up to one (1) year after its defeat, of any proposal that is defeated under the Advisory Planning Law. The Commission may also adopt a rule to limit consideration, for up to six (6) months after the withdrawal or defeat of any proposal, of any other proposal involving the same property that was the subject of the withdrawn or defeated proposal.

31.07 Failure of Commission or Board to Establish a Vote.

A vote establishing conclusive approval or denial on a matter before the Plan Commission or the Board of Zoning Appeals shall require a majority vote. A majority vote of the Plan Commission shall require concurrence of more than half of the members of the entire Commission. A majority vote of the Board of Zoning Appeals shall require concurrence of more than half of the members of the entire Board. In the event that a majority vote is not reached, and no conclusive approval or denial can be granted, the party seeking a decision by the Board or Commission can request placement on the agenda of the subsequent month's meeting. This request must be in written form and given to the appropriate authorities in the Director's office.

31.08 Copy on File.

A certified copy of the Zoning Ordinance of the City of Carmel, Indiana, as may be amended from time to time, shall be filed in the office of the Clerk-Treasurer and shall be available for public viewing during normal office hours.

**CHAPTER 31: GENERAL PROVISIONS
AMENDMENT LOG**

Ordinance No.	Docket No.	Council Approval	Effective Date	Sections Affected
Z-316	86-96 OA		December 23, 1996	
Z-335	3-99 OA		June 7, 1999	
Z-365-01	76-01a OA	November 5, 2001	November 27, 2001	31.1.5
Z-369-02	160-01 OA	April 1, 2002	April 1, 2002	31.3 Spring 2002 v2
Z-416-03	40-02 OA	November 17, 2003	November 18, 2003	31.06 Autumn 2003 v1
Z-460-04	04080064 OA	December 20, 2004	December 20, 2004	31.06.06 Winter 2005 v1
Z-475-05	05010007 OA	March 7, 2005	March 7, 2005	31.06.04 Winter 2005 v2